IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 763 OF 2005

1. Marlborough Finance Pvt. Ltd.
& Ors. ...Applicants.

V/s

1. State of Maharashtra
and Anr. ...Respondents.

None for the applicants.
Mr. S.R. Shinde, APP for the State.

CORAM: V.M.KANADE,J.

DATE: 31st March, 2005

P.C.:

1. Applicants are challenging the order of issuance of process by the Metropolitan Magistrate on a complaint filed by Respondent No.2 under section 138 of the Negotiable Instruments Act.

2. It is alleged that no specific role has been attributed to applicant Nos. 2 to 5. A bare statement is made that the applicant Nos. 2 to 5 had taken part in negotiation in respect of purchase of shares. It is submitted that there was no existing debt or liability and, therefore, the process is liable to be quashed.

3. It is not possible to accept the contentions of the applicant as raised in the application. There are

sufficient averments in the complaint which indicate that the accused had taken active part in the transaction. It is further stated that accused Nos. 2 to 5 are Directors and are in day-to-day management and control of accused No.1. It is stated that the accused No.6 is the authorized signatory of accused No.1. Further particulars are given in paragraphs 5 and 6. Similarly, further averments regarding role played by the accused is mentioned in paragraph 10. Thus it is not possible to accept the contentions raised by the applicants. This issue will have to be decided by the Trial Court after the evidence is adduced by both the parties. All the questions raised in this application are kept open and the Trial Court should decide these questions on merits and in accordance with law.

4. With the above observations, Criminal Application is dismissed.

V.M. KANADE, J.